



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Receive Report Regarding League of California Cities Communications Pertaining to Assembly Bill 2312

MEETING DATE: June 6, 2012

PREPARED BY: City Clerk

RECOMMENDED ACTION: Receive report regarding League of California Cities (League) communications pertaining to Assembly Bill 2312.

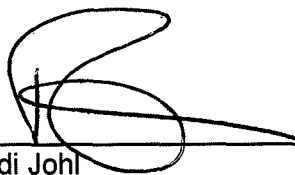
BACKGROUND INFORMATION: The City received a request for communication from the League pertaining to AB 2312. A letter of opposition to AB 2312, signed by the Mayor, was sent out immediately as the bill was being heard in committee shortly.

As you are aware, existing law provides that qualified patients, persons with valid identification cards, and designated primary caregivers of qualified patients and persons with identification cards under certain specified circumstances are not subject to state criminal sanctions for the possession, sale, transport, or other proscribed acts relating to marijuana. This bill authorizes these individuals to associate within the State of California as collectives, cooperatives, and other business entities to cultivate, acquire, process, possess, transport, test, sell, and distribute marijuana for medical purposes. The bill would provide that these persons are not subject to arrest, prosecution, or specified sanctions for possessing, selling, transporting, or engaging in other proscribed acts relating to marijuana, unless they are not in compliance with the registration requirements described in the bill. Given the status of litigation in this arena, it is prudent to understand first the extent of both local and state authority in this area following the Supreme Court rulings before the Legislature establishes a new statewide regulatory scheme.

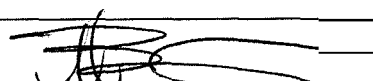
The above-referenced letter was sent as requested on May 7, 2012 and this report is provided for informational purposes only.

FISCAL IMPACT: None.

FUNDING AVAILABLE: Not applicable.


Randi Johl
City Clerk

APPROVED:



Konrad Bartlam, City Manager

Randi Johl

From: Randi Johl
Sent: Monday, May 21, 2012 10:05 AM
To: Randi Johl
Subject: FW: Letters needed

----- Original Message-----

From: Stephen R. Qualls [mailto:squalls@cacities.org]
Sent: Wed 5/2/2012 10:20 AM

Subject: Letters needed

Please have your Mayor or Council send a letter opposing AB 2312.
In short, the bill would require a city to issue one permit for a marijuana dispensary for every 50,000 citizens in their community.
If the city chooses not to, it must pay for an election and incur other costs.
I have included further information below as well as an electronic version and a sample letter.
If you have any questions, please contact me.
Thank you,

ACTION ALERT!!

AB 2312 (Ammiano)
Controlled substances.

Oppose

Quick Facts for AB 2312:

Bill creates state oversight board and erodes local control.
AB 2312 creates the Board of Medical Marijuana Enforcement within the California Department of Consumer Affairs to oversee and regulate the medical marijuana industry in California. This steps on the toes of last year's AB 1300 (Blumenfeld), which provides that local jurisdictions have the authority to regulate the location, operation, and establishment of medical marijuana cooperatives and collectives.

Efforts are premature and redundant of work being done in the California Supreme Court. Regardless of views on medical marijuana, this legislation duplicates the state Supreme Court's efforts and further confuses the issue for cities and state agencies. Opinions will be delivered on three cases that will help clarify the local, state, and federal relationship in regards to medical marijuana dispensary regulations, including the specific question of a city's authority to ban dispensaries.

Cities Have to Pay Up to Opt Out of One-Size-Fits-All Formula. Local resources would be better spent on providing safety and community services in all areas of need, not just medical marijuana regulation. Instead, AB 2312 requires cities to pay-up if they want to opt out of the population-driven formula for how many dispensaries are required in their boundaries. Even if a city still wishes to authorize dispensaries, if the number is less than one dispensary for every 50K people they have to hold a costly election and pass a voter approved ordinance enacting that change. Cities with less than 50K population seeking to ban dispensaries must conduct a time-consuming study and report to the to-be-created state marijuana regulation board that medical marijuana is reasonably accessible in their jurisdiction.

AB 2312 has been re-referred to the Committee on Appropriations.

ACTION:

LETTERS of city opposition by fax to targeted members of the Assembly Committee on Appropriations are the priority; however all members of the committee should receive a

letter. Republican committee members' contact information is included (following targeted priority list). This bill is currently not scheduled for hearing, but we anticipate it to be heard within the next couple weeks- please send letters ASAP (sample opposition letter and talking points included).

Talking Points:

AB 2312 is premature and is redundant of work being done in the California Supreme Court. Rulings are expected on three cases that will help clarify the local, state and federal relationship in regards to medical marijuana dispensary regulations and this legislation is simply duplicating their efforts.

Legislation was passed in **2011** (AB 1300, Blumenfield) that provided local jurisdictions with the authority to regulate the location, operation, or establishment of medical marijuana cooperatives or collectives. Before the rules are changed on cities again, we should wait to see how current law helps or impedes regulation.

Setting a statewide protocol for how local jurisdictions may regulate medical marijuana dispensaries isn't practical in that cities need to decide how their resources are best used. The minimum dispensary establishment should be based on the desires and wishes of the community, not a population-driven formula.

Cities who would like to stray from the regulations presented in this bill would be slapped with financial burdens such as analysis, research and costly elections. Conducting such work and/or special election would cost my city \$\$\$\$. Local resources would be better spent on providing health and safety services to our community in all areas of need, not just medical marijuana regulation.

Any legislative work regarding medical marijuana dispensary regulations should come, if necessary, after the California Supreme Court rulings.

Register for the League of California Cities Annual Conference before May 25th and save **\$50.00** off both registration and accommodations.

Click on the link for more information.

[<https://mail.cacities.org/owa/attachment.ashx?id=RgAAACy8fHTR2LKSbH7v1WA%2bKroBwCJIF8QxE1YR5pVkcGpAAAGc5DHAACi1U1kD4vzS51QTLjAf8aNAAAYDS6WAAAJ&attcnt=1&attid0=BAABAAAA&attcid0=image001.jpg%4001CD26BE.D04B4D10>] <<http://www.cacities.org/AC>>

Stephen Qualls
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League of California Cities

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KONRADT BARTLAM,
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City Attorney

May 7, 2012

The Honorable Felipe Fuentes
Chair, Assembly Appropriations Committee
State Capitol Building, Room 2114
Sacramento, California 95814
Via Facsimile: (916) 319-2139

SUBJECT: AB 2312 (Ammiano). Controlled Substances
Notice of Opposition

Dear Assembly Member Fuentes:

The City of Lodi (Lodi) opposes Assembly Bill 2312 (Ammiano), the Medical Marijuana Regulation and Control Act. We recognize the author's effort to provide greater clarity under the state medical marijuana laws given the current uncertainty related to regulation at both the state and local levels. However, the bill is premature. It could further confuse the issues at hand rather than resolve them while creating significant new costs for local jurisdictions.

AB 2312 seeks to set statewide protocol for how local jurisdictions may regulate medical marijuana dispensaries but we have several concerns with the proposed new population-based standards and costly, time consuming process governing the establishment of dispensaries. The most immediate concern is that the California Supreme Court is now reviewing permissible local regulation of medical marijuana distribution in conjunction with state and federal law in three cases that it accepted this year including two cases that speak directly to a city's authority to ban. To avoid further confusion for both local jurisdictions and state agencies, and to avoid duplication of effort between the courts and the legislature, action on AB 2312 should be postponed until the state Supreme Court issues its opinion later this year.

In addition, AB 2312 is troubling because of the price tag attached to retaining local authority, as granted under Assembly Bill 1300 (Blumenfield; 2011). AB 2312 only offers cities the option to change the mandatory number of dispensaries in their jurisdiction if they pay. For cities with populations over 50,000, such as Lodi, it requires holding a costly election to pass a voter approved ordinance. A special election for Lodi could cost anywhere between \$100,000 and \$150,000. Resources would be better spent on providing health and safety services in all areas of need, not just medical marijuana regulation.

It would be more prudent to understand the extent of both local and state authority in this area following the Supreme Court rulings before the Legislature establishes a new statewide regulatory scheme at the same time that local jurisdictions are implementing AB 1300 under which local authority was clearly intended and preserved. For these reasons, the City of Lodi opposes AB 2312.

Sincerely,

A handwritten signature in black ink, reading "JoAnne Mounce". The signature is fluid and cursive, with the first name "JoAnne" and the last name "Mounce" clearly legible.

JoAnne Mounce
Mayor

C: Honorable Tom Ammiano (*Via Facsimile* – (916) 319-2113)
Stephen Qualls, Regional Representative, League of California Cities